

REFERENCE TITLE: accountability; clean elections for judges

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HCR 2063

Introduced by

Representatives Pearce, Barnes, Nelson, Weiers JP, Senators Blendu, Gray C, Johnson, O'Halleran: Representatives Alvarez, Anderson, Barto, Biggs, Boone, Burges, Clark, Crump, Groe, Kavanagh, Mason, McLain, Nichols, Robson, Stump, Thrasher, Tobin, Weiers J, Yarbrough, Senators Bee, Burns, Flake, Gould, Gray L, Harper, Verschoor

A CONCURRENT RESOLUTION

PROPOSING AMENDMENTS TO THE CONSTITUTION OF ARIZONA AND ARIZONA REVISED STATUTES; AMENDING ARTICLE VI, SECTIONS 12, 28, 30, 35, 37, 38 AND 42, CONSTITUTION OF ARIZONA; REPEALING ARTICLE VI, SECTIONS 40 AND 41, CONSTITUTION OF ARIZONA; AMENDING SECTIONS 12-102, 12-121, 16-311, 16-322, 16-949 AND 38-431.08, ARIZONA REVISED STATUTES; AMENDING TITLE 16, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-962; RELATING TO THE JUDICIAL DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Article VI, sections 12, 28, 30, 35, 37, 38 and 42, Constitution of
4 Arizona, are proposed to be amended as follows if approved by the voters and
5 on proclamation of the Governor:

6 12. Superior court; term of office: vacancies and
7 appointments

8 Section 12. A. ~~Judges of the superior court~~ In counties
9 ~~having~~ WITH a population of less than ~~two~~ EIGHT hundred ~~fifty~~
10 thousand persons according to the most recent United States
11 decennial census:

12 1. SUPERIOR COURT JUDGES shall be elected by the
13 qualified electors of their counties at the general election.
14 They shall hold office for a regular term of four years except
15 as provided by this section from and after the first Monday in
16 January next succeeding their election, and until their
17 successors are elected and qualify. The names of all candidates
18 for judge of the superior court in such counties shall be placed
19 on the regular ballot without partisan or other designation
20 except the division and title of the office.

21 ~~B.~~ 2. The governor shall fill any vacancy in such
22 counties by appointing a person to serve until the election and
23 qualification of a successor. At the next succeeding general
24 election following the appointment of a person to fill a
25 vacancy, a judge shall be elected to serve for the remainder of
26 the unexpired term.

27 ~~Judges of the superior court in counties having a~~
28 ~~population of two hundred fifty thousand persons or more~~
29 ~~according to the most recent United States census shall hold~~
30 ~~office for a regular term of four years except as provided by~~
31 ~~this article.~~

32 B. IN COUNTIES WITH A POPULATION OF EIGHT HUNDRED
33 THOUSAND PERSONS OR MORE ACCORDING TO THE MOST RECENT UNITED
34 STATES DECENNIAL CENSUS:

35 1. SUPERIOR COURT JUDGES SHALL BE ELECTED BY THE
36 QUALIFIED ELECTORS OF THE JUDICIAL DISTRICT IN THESE COUNTIES.
37 THE BOARDS OF SUPERVISORS IN THESE COUNTIES SHALL ESTABLISH
38 JUDICIAL DISTRICTS THAT CONSIST OF SUBSTANTIALLY EQUAL
39 POPULATIONS AND THAT ARE THE SAME AS THE DISTRICTS FROM WHICH
40 MEMBERS OF THE BOARD OF SUPERVISORS ARE ELECTED. THE NUMBER OF
41 JUDGES ELECTED FROM EACH JUDICIAL DISTRICT SHALL BE AS EQUAL AS
42 PRACTICABLE. SUPERIOR COURT JUDGES SHALL HOLD OFFICE FOR A
43 REGULAR TERM OF SIX YEARS EXCEPT AS PROVIDED BY THIS SECTION
44 FROM AND AFTER THE FIRST MONDAY IN JANUARY NEXT SUCCEEDING THEIR
45 ELECTION, AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFY.
46 THE BALLOT SHALL REFLECT THAT THERE ARE AS MANY SEPARATE OFFICES

TO BE FILLED AS THERE ARE JUDGES TO BE ELECTED. THE BALLOT SHALL DESIGNATE EACH SEPARATE OFFICE AS A SEPARATE DIVISION OF THE COURT.

2. WITHIN SIXTY DAYS AFTER THE OCCURRENCE OF A VACANCY IN THE OFFICE OF A SUPERIOR COURT JUDGE IN SUCH COUNTIES, THE BOARD OF SUPERVISORS SHALL APPOINT A JUDGE TO SERVE UNTIL THE ELECTION AND QUALIFICATION OF A SUCCESSOR. THE APPOINTED JUDGE SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE JUDGE VACATING THE OFFICE. IN MAKING THE APPOINTMENT, THE BOARD OF SUPERVISORS SHALL CONSIDER THE DIVERSITY OF THE JUDICIAL DISTRICT'S POPULATION FOR A SUPERIOR COURT APPOINTMENT. HOWEVER, THE PRIMARY CONSIDERATION IS MERIT.

3. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE BOARD OF SUPERVISORS SHALL ASSIGN THE JUDICIAL TERMS BY LOT AS FOLLOWS:

(a) BEFORE JANUARY 1, 2010, FOR SUPERIOR COURT JUDGES WHO WERE RETAINED IN OFFICE BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND WHOSE TERMS END IN 2011 AND FOR ALL OTHER CANDIDATES FOR SUPERIOR COURT JUDGE WHOSE NAMES ARE PLACED ON THE BALLOT IN 2010, ONE-THIRD SHALL BE ELECTED FOR A TERM OF TWO YEARS, ONE-THIRD SHALL BE ELECTED FOR A TERM OF FOUR YEARS AND ONE-THIRD SHALL BE ELECTED FOR A TERM OF SIX YEARS. ALL SUBSEQUENT SUPERIOR COURT JUDGES SHALL BE ELECTED TO SERVE SIX YEAR TERMS.

(b) BEFORE JANUARY 1, 2012, FOR SUPERIOR COURT JUDGES WHO WERE RETAINED IN OFFICE BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND WHOSE TERMS END IN 2013 AND FOR ALL OTHER CANDIDATES FOR SUPERIOR COURT JUDGE WHOSE NAMES ARE PLACED ON THE BALLOT IN 2012, ONE-THIRD SHALL BE ELECTED FOR A TERM OF TWO YEARS, ONE-THIRD SHALL BE ELECTED FOR A TERM OF FOUR YEARS AND ONE-THIRD SHALL BE ELECTED FOR A TERM OF SIX YEARS, EXCEPT FOR JUDGES WHO WERE ELECTED FOR A TWO YEAR TERM IN 2010. ALL SUBSEQUENT SUPERIOR COURT JUDGES SHALL BE ELECTED TO SERVE SIX YEAR TERMS.

4. NOTWITHSTANDING PARAGRAPH 1 OF THIS SUBSECTION, A PRESIDING JUDGE SHALL BE ELECTED BY THE QUALIFIED ELECTORS OF EACH COUNTY. THE PRESIDING JUDGE SHALL APPOINT THE ASSOCIATE PRESIDING JUDGE AND MAKE REGULAR AND SPECIAL ASSIGNMENTS OF ALL SUPERIOR COURT JUDGES.

28. Justices and judges; dual office holding; political activity; practice of law

Section 28. Justices and judges of courts of record shall not be eligible for any other public office or for any other public employment during their term of office, except that they may assume another judicial office, and upon qualifying therefor, the office formerly held shall become vacant. No

1 justice or judge of any court of record shall practice law
 2 during his continuance in office, nor shall he hold any office
 3 in a political party or actively take part in any political
 4 campaign other than his own for his reelection or retention in
 5 office. Any justice or judge who files nomination papers for an
 6 elective office, other than for judge of the superior court or a
 7 court of record inferior to the superior court ~~in a county~~
 8 ~~having a population of less than two hundred fifty thousand~~
 9 ~~persons according to the most recent United States census,~~
 10 forfeits his judicial office.

11 30. Courts of record

12 Section 30. ~~A.~~ The supreme court, the court of appeals
 13 and the superior court shall be courts of record. Other courts
 14 of record may be established by law, but justice courts shall
 15 not be courts of record.

16 ~~B. All justices and judges of courts of record, except~~
 17 ~~for judges of the superior court and other courts of record~~
 18 ~~inferior to the superior court in counties having a population~~
 19 ~~of less than two hundred fifty thousand persons according to the~~
 20 ~~most recent United States census, shall be appointed in the~~
 21 ~~manner provided in section 37 of this article.~~

22 35. Continuance in office; continued existence of
 23 offices; application of prior statute and rules

24 Section 35. ~~A.~~ All justices, judges, justices of the
 25 peace and officers of any court who are holding office as such
 26 by election or appointment at the time of the adoption of this
 27 section ~~OR ANY AMENDMENT TO THIS SECTION~~ shall serve or continue
 28 in office for the respective terms for which they are so elected
 29 or for their respective unexpired terms, and until their
 30 successors are elected or appointed and qualify or they are
 31 retained in office pursuant to section 38 of this article;
 32 ~~provided, however,~~ EXCEPT that any justice or judge elected at
 33 the general election at which this section is adopted shall
 34 serve for the term for which he is so elected. The continued
 35 existence of any office heretofore legally established or held
 36 shall not be abolished or repealed by the adoption of this
 37 article. The statutes and rules relating to the authority,
 38 jurisdiction, practice and procedure of courts, judicial
 39 officers and offices in force at the time of the adoption of
 40 this article and not inconsistent herewith, shall, so far as
 41 applicable, apply to and govern such courts, judicial officers
 42 and offices until amended or repealed.

43 ~~B. All judges of the superior court holding office by~~
 44 ~~appointment or retention in counties with a population of two~~
 45 ~~hundred fifty thousand persons or more according to the most~~
 46 ~~recent United States census at the time of the adoption of this~~

~~amendment to this section shall serve or continue in office for the respective terms for which they were appointed. Upon an incumbent vacating the office of judge of the superior court, whether by failing to file a declaration for retention, by rejection by the qualified electors of the county or resignation, the appointment shall be pursuant to section 37 of this article.~~

37. Judicial vacancies and appointments; initial terms; residence; age

Section 37. A. Within sixty days from the occurrence of a vacancy in the office of a justice OF THE SUPREME COURT or A judge of ~~any~~ AN INTERMEDIATE APPELLATE court of record, ~~except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court,~~ the commission on appellate court appointments, ~~if the vacancy is in the supreme court or an intermediate appellate court of record,~~ shall submit to the governor the names of not less than three persons nominated by it to fill such vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event not more than sixty ~~percentum~~ PER CENT of such nominees shall be members of the same political party.

~~B. Within sixty days from the occurrence of a vacancy in the office of a judge of the superior court or a judge of a court of record inferior to the superior court except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court in a county having a population of less than two hundred fifty thousand persons according to the most recent United States census, the commission on trial court appointments for the county in which the vacancy occurs shall submit to the governor the names of not less than three persons nominated by it to fill such vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event no more than sixty per centum of such nominees shall be members of the same political party. A nominee shall be under sixty-five years of age at the time his name is submitted to the governor. Judges of the superior court shall be subject to retention or rejection by a vote of the qualified electors of the county from which they were appointed at the general election in the manner provided by section 38 of this article.~~

~~C.~~ B. A vacancy in the office of a justice OF THE SUPREME COURT or a judge of ~~such courts~~ AN INTERMEDIATE APPELLATE COURT of record shall be filled by appointment by the governor without regard to political affiliation from one of the

nominees whose names ~~shall be~~ ARE submitted to ~~him~~ THE GOVERNOR as hereinabove provided. In making the appointment, the governor shall consider the diversity of the state's population for an appellate court appointment ~~and the diversity of the county's population for a trial court appointment~~, however the primary consideration shall be merit. If the governor does not appoint one of ~~such~~ THE nominees to fill such vacancy within sixty days after their names are submitted to the governor by ~~such~~ THE commission, the chief justice of the supreme court ~~forthwith~~ shall appoint ONE OF THE NOMINEES on the basis of merit alone without regard to political affiliation ~~one of such nominees~~ to fill such vacancy. If ~~such~~ THE commission does not SUBMIT, within sixty days after such vacancy occurs, ~~submit~~ the names of nominees ~~as hereinabove provided~~ PURSUANT TO SUBSECTION A, the governor shall have the power to appoint any qualified person to fill such vacancy at any time thereafter ~~prior to~~ BEFORE the time the names of the nominees to fill such vacancy are submitted to the governor ~~as hereinabove provided~~ PURSUANT TO SUBSECTION A. Each justice or APPELLATE COURT judge so appointed shall initially hold office for a term ending sixty days following the next regular general election after the expiration of a term of two years in office. Thereafter, the terms of justices or APPELLATE COURT judges ~~of the supreme court and the superior court~~ shall be as provided by this article.

~~D.~~ C. A person appointed to fill a vacancy on an intermediate appellate court or another court of record now existing or hereafter established by law shall have been a resident of the counties or county in which that vacancy exists for at least one year ~~prior to his~~ BEFORE THE PERSON'S appointment, in addition to possessing the other required qualifications. A nominee shall be under sixty-five years of age at the time ~~his~~ THE NOMINEE'S name is submitted to the governor.

38. Declaration of candidacy; form of judicial ballot, rejection and retention; failure to file declaration

Section 38. A. A justice or judge of the supreme court or an intermediate appellate court shall file in the office of the secretary of state, ~~and a judge of the superior court or other court of record including such justices or judges who are holding office as such by election or appointment at the time of the adoption of this section except for judges of the superior court and other courts of record inferior to the superior court in counties having a population of less than two hundred fifty thousand persons, according to the United States census, shall file in the office of the clerk of the board of supervisors of~~

~~the county in which he regularly sits and resides,~~ not less than sixty nor more than ninety days ~~prior to~~ BEFORE the regular general election next preceding the expiration of his term of office, a declaration of his desire to be retained in office, and the secretary of state shall certify to the several boards of supervisors the appropriate names of the candidate or candidates appearing on such declarations filed in his office.

B. The name of any justice or APPELLATE COURT judge whose declaration is filed as provided in this section shall be placed on the appropriate official ballot at the next regular general election under a nonpartisan designation and in substantially the following form:

Shall _____, (Name of justice or APPELLATE COURT judge) of the _____ court be retained in office? Yes ___ No ___ (Mark X after one).

C. If a majority of those voting on the question votes "No," ~~then,~~ upon the expiration of the term for which such justice or APPELLATE COURT judge was serving, a vacancy shall exist, which shall be filled as provided by this article. If a majority of those voting on the question votes "Yes," such justice or APPELLATE COURT judge shall remain in office for another term, subject to removal as provided by this constitution.

D. The votes shall be counted and canvassed and the result declared as in the case of state and county elections, whereupon a certificate of retention or rejection of the incumbent justice or APPELLATE COURT judge shall be delivered to ~~him~~ THE INCUMBENT by the secretary of state or the clerk of the board of supervisors, as the case may be.

E. If a justice or APPELLATE COURT judge fails to file a declaration of ~~his~~ THE JUSTICE'S OR JUDGE'S desire to be retained in office, as required by this section, ~~then-his~~ THE JUSTICE'S OR JUDGE'S office shall become vacant upon expiration of the term for which such justice or judge was serving.

42. Retention evaluation of justices and appellate court judges

The supreme court shall adopt, after public hearings, and administer for all justices and APPELLATE COURT judges who file a declaration to be retained in office, a process, established by court rules, for evaluating judicial performance. The rules shall include written performance standards and performance reviews which survey opinions of persons who have knowledge of the justice's or APPELLATE COURT judge's performance. The public shall be afforded a full and fair opportunity for participation in the evaluation process through public hearings,

1 dissemination of evaluation reports to voters and any other
2 methods as the court deems advisable.

3 2. Article VI, sections 40 and 41, Constitution of Arizona, are
4 proposed to be repealed as follows if approved by the voters and on
5 proclamation of the Governor:

6 Article VI, section 40, Constitution of Arizona, relating
7 to the option for counties with a population of less than two
8 hundred fifty thousand persons, is repealed.

9 Article VI, section 41, Constitution of Arizona, relating
10 to the commission on trial court appointments, is repealed.

11 3. Section 12-102, Arizona Revised Statutes, is proposed to be amended
12 as follows if approved by the voters and on proclamation of the Governor:

13 12-102. Jurisdiction and duties; court appointments;
14 contract and volunteer service providers;
15 background investigations; fingerprinting

16 A. The supreme court shall discharge the duties imposed
17 and exercise the jurisdiction conferred by the constitution and
18 by law.

19 B. As a condition of appointment to any paid position in
20 the judicial department that is defined as a noncriminal justice
21 agency under federal law, including nomination for judicial
22 office by the ~~commissions~~ COMMISSION on appellate ~~and trial~~
23 court appointments pursuant to article VI, ~~sections~~ SECTION 37
24 ~~and 41~~, Constitution of Arizona, the court shall require each
25 applicant to furnish a full set of fingerprints to enable the
26 court to conduct a criminal background investigation to
27 determine the suitability of the applicant. The court shall
28 submit the completed applicant fingerprint card to the
29 department of public safety. The applicant shall bear the cost
30 of obtaining the applicant's criminal history record
31 information. The cost shall not exceed the actual cost of
32 obtaining the applicant's criminal history record information.
33 Applicant criminal history records checks shall be conducted
34 pursuant to section 41-1750 and Public Law 92-544. The
35 department of public safety is authorized to exchange the
36 submitted applicant fingerprint card information with the
37 federal bureau of investigation for a national criminal history
38 records check.

39 C. The court may require each person who provides
40 contract or volunteer services in the judicial department that
41 is defined as a noncriminal justice agency under federal law to
42 furnish a full set of fingerprints to enable the court to
43 conduct a criminal background investigation. The court shall
44 submit the person's completed fingerprint card to the department
45 of public safety. The person shall bear the cost of obtaining
46 the person's criminal history record information. The cost

shall not exceed the actual cost of obtaining the person's criminal history record information. Criminal history records checks shall be conducted pursuant to section 41-1750 and Public Law 92-544. The department of public safety is authorized to exchange the person's submitted fingerprint card information with the federal bureau of investigation for a national criminal history records check.

4. Section 12-121, Arizona Revised Statutes, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

12-121. Number of judges; petition for approval of additional judges

A. In each county of the state there shall be a superior court for which ~~at least one~~ EACH judge shall be elected. ~~In each county having a census enumeration greater than thirty thousand inhabitants, and upon~~ ON petition by the board of supervisors of ~~such~~ THE county to the governor and ~~his~~ ON THE GOVERNOR'S approval ~~thereof~~ OF THE PETITION, ~~there shall be an additional judge OR JUDGES of the superior court for each thirty thousand inhabitants, or majority fraction thereof, or the additional judge of the superior court may~~ SHALL be authorized, ~~based on the procedure prescribed by the terms of subsections B and C.~~

~~B. Upon petition by the board of supervisors of a county to the governor and his approval thereof, there shall be an additional judge of the superior court provided that the board of supervisors has determined, as prescribed in subsection C, that the county has acquired since the last census enumeration the required number of inhabitants for an additional judge as provided in subsection A.~~

~~C. The determination of the board of supervisors shall be based on, but not limited to, recent estimates of population, if any, of any area within the county issued by the bureau of the census, auto registrations, nonagricultural employment, gross utility revenues and retail sales.~~

~~D.~~ B. Additional judges authorized by ~~the terms of~~ this section shall be ~~appointed or~~ elected as provided by law.

5. Section 16-311, Arizona Revised Statutes, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

16-311. Nomination papers; filing; definitions

A. Any person desiring to become a candidate at a primary election for a political party and to have the person's name printed on the official ballot shall be a qualified elector of such party and, not less than ninety nor more than one hundred twenty days before the primary election, shall sign and cause to be filed a nomination paper giving the person's actual residence address or description of place of residence and post office

1 address, naming the party of which the person desires to become
2 a candidate, stating the office and district or precinct, if
3 any, for which the person offers the person's candidacy, stating
4 the exact manner in which the person desires to have the
5 person's name printed on the official ballot pursuant to
6 subsection G, and giving the date of the primary election and,
7 if nominated, the date of the general election at which the
8 person desires to become a candidate. A candidate for public
9 office shall be a qualified elector at the time of filing and
10 shall reside in the county, district or precinct ~~which~~ THAT the
11 person proposes to represent, EXCEPT THAT JUDGES OF THE SUPERIOR
12 COURT IN COUNTIES WITH A POPULATION OF EIGHT HUNDRED THOUSAND
13 PERSONS OR MORE WHO ARE SERVING A TERM OF OFFICE ON THE
14 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION SHALL RESIDE IN
15 THE COUNTY AND NOT THE DISTRICT THAT THE JUDGE PROPOSES TO
16 REPRESENT.

17 B. Any person desiring to become a candidate at any
18 nonpartisan election and to have the person's name printed on
19 the official ballot shall be at the time of filing a qualified
20 elector of such county, city, town or district and, not less
21 than ninety nor more than one hundred twenty days before the
22 election, shall sign and cause to be filed a nomination paper
23 giving the person's actual residence address or description of
24 place of residence and post office address, stating the office
25 and county, city, town or district and ward or precinct, if any,
26 for which the person offers the person's candidacy, stating the
27 exact manner in which the person desires to have the person's
28 name printed on the official ballot pursuant to subsection G and
29 giving the date of the election. A candidate for office shall
30 reside at the time of filing in the county, city, town,
31 district, ward or precinct ~~which~~ THAT the person proposes to
32 represent, EXCEPT THAT JUDGES OF THE SUPERIOR COURT IN COUNTIES
33 WITH A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE WHO
34 ARE SERVING A TERM OF OFFICE ON THE EFFECTIVE DATE OF THIS
35 AMENDMENT TO THIS SECTION SHALL RESIDE IN THE COUNTY AND NOT THE
36 DISTRICT THAT THE JUDGE PROPOSES TO REPRESENT.

37 C. Notwithstanding THE PROVISIONS OF subsection B to the
38 contrary, any city or town may adopt by ordinance for its
39 elections the time frame provided in subsection A for filing
40 nomination petitions. Such ordinance shall be adopted not less
41 than one hundred twenty days before the first election to which
42 it applies.

43 D. All persons desiring to become a candidate shall file
44 with the nomination paper provided for in subsection A an
45 affidavit which shall be printed in a form prescribed by the
46 secretary of state. The affidavit shall include facts

1 sufficient to show that, other than the residency requirement
2 provided in subsection A, the candidate will be qualified at the
3 time of election to hold the office the person seeks.

4 E. The nomination paper of a candidate for the office of
5 United States senator or representative in Congress, for the
6 office of presidential elector or for a state office, including
7 a member of the legislature, or for any other office for which
8 the electors of the entire state or a subdivision of the state
9 greater than a county are entitled to vote, shall be filed with
10 the secretary of state no later than 5:00 p.m. on the last date
11 for filing.

12 F. The nomination paper of a candidate for superior court
13 judge or for a county, district and precinct office for which
14 the electors of a county or a subdivision of a county other than
15 an incorporated city or town are entitled to vote shall be filed
16 with the county elections officer no later than 5:00 p.m. on the
17 last date for filing as prescribed by subsection A. The
18 nomination paper of a candidate for a city or town office shall
19 be filed with the city or town clerk no later than 5:00 p.m. on
20 the last date for filing. The nomination paper of a candidate
21 for school district office shall be filed with the county school
22 superintendent no later than 5:00 p.m. on the last date for
23 filing.

24 G. The nomination paper shall include the exact manner in
25 which the candidate desires to have the person's name printed on
26 the official ballot and shall be limited to the candidate's
27 surname and given name or names, an abbreviated version of such
28 names or appropriate initials such as "Bob" for "Robert", "Jim"
29 for "James", "Wm." for "William" or "S." for "Samuel". Nicknames
30 are permissible, but in no event shall nicknames, abbreviated
31 versions or initials of given names suggest reference to
32 professional, fraternal, religious or military titles. No other
33 descriptive name or names shall be printed on the official
34 ballot, except as provided in this section. Candidates'
35 abbreviated names or nicknames may be printed within quotation
36 marks. The candidate's surname shall be printed first, followed
37 by the given name or names.

38 H. A person who does not file a timely nomination paper
39 that complies with this section is not eligible to have the
40 person's name printed on the official ballot for that office.
41 The filing officer shall not accept the nomination paper of a
42 candidate for state or local office unless the person provides
43 or has provided all of the following:

- 1 1. The nomination petition required by this title.
- 2 2. A political committee statement of organization or the
- 3 five hundred dollar threshold exemption statement for that
- 4 office.
- 5 3. The financial disclosure statement as prescribed for
- 6 candidates for that office.
- 7 I. For the purposes of this title:
- 8 1. "Election district" means the state, any county, city,
- 9 town, precinct or other political subdivision or a special
- 10 district which is not a political subdivision, which is
- 11 authorized by statute to conduct an election and which is
- 12 authorized or required to conduct its election in accordance
- 13 with this title.
- 14 2. "Nomination paper" means the form filed with the
- 15 appropriate office by a person wishing to declare the person's
- 16 intent to become a candidate for a particular political office.
- 17 6. Section 16-322, Arizona Revised Statutes, is proposed to be amended
- 18 as follows if approved by the voters and on proclamation of the Governor:
- 19 16-322. Number of signatures required on nomination
- 20 petitions
- 21 A. Nomination petitions shall be signed:
- 22 1. If for a candidate for the office of United States
- 23 senator or for a state office, excepting members of the
- 24 legislature and superior court judges, by a number of qualified
- 25 electors who are qualified to vote for the candidate whose
- 26 nomination petition they are signing equal to at least one-half
- 27 of one per cent of the voter registration of the party of the
- 28 candidate in at least three counties in the state, but not less
- 29 than one-half of one per cent nor more than ten per cent of the
- 30 total voter registration of his party in the state.
- 31 2. If for a candidate for the office of representative in
- 32 Congress, by a number of qualified electors who are qualified to
- 33 vote for the candidate whose nomination petition they are
- 34 signing equal to at least one-half of one per cent but not more
- 35 than ten per cent of the total voter registration of the party
- 36 designated in the district from which such representative shall
- 37 be elected.
- 38 3. If for a candidate for the office of member of the
- 39 legislature, by a number of qualified electors who are qualified
- 40 to vote for the candidate whose nomination petition they are
- 41 signing equal to at least one per cent but not more than three
- 42 per cent of the total voter registration of the party designated
- 43 in the district from which the member of the legislature may be
- 44 elected.
- 45 4. If for a candidate for a county office or **A CANDIDATE**
- 46 **FOR** superior court judge, by a number of qualified electors who

1 are qualified to vote for the candidate whose nomination
2 petition they are signing equal to at least two per cent but not
3 more than ten per cent of the total voter registration of the
4 party designated in the county or district, provided that in
5 counties with a population of two hundred thousand persons or
6 more, a candidate for a county office OR A CANDIDATE FOR
7 SUPERIOR COURT shall have nomination petitions signed by a
8 number of qualified electors who are qualified to vote for the
9 candidate whose nomination petition they are signing equal to at
10 least one-half of one per cent but not more than ten per cent of
11 the total voter registration of the party designated in the
12 county or district.

13 5. If for a candidate for a community college district,
14 by a number of qualified electors who are qualified to vote for
15 the candidate whose nomination petition they are signing equal
16 to at least one-half of one per cent but not more than ten per
17 cent of the total voter registration in the precinct as
18 established pursuant to section 15-1441.

19 6. If for a candidate for county precinct committeeman,
20 by a number of qualified electors who are qualified to vote for
21 the candidate whose nomination petition they are signing equal
22 to at least two per cent but not more than ten per cent of the
23 party voter registration in the precinct or ten signatures,
24 whichever is less.

25 7. If for a candidate for justice of the peace or
26 constable, by a number of qualified electors who are qualified
27 to vote for the candidate whose nomination petition they are
28 signing equal to at least two per cent but not more than ten per
29 cent of the party voter registration in the precinct.

30 8. If for a candidate for mayor or other office nominated
31 by a city at large, by a number of qualified electors who are
32 qualified to vote for the candidate whose nomination petition
33 they are signing equal to at least five per cent and not more
34 than ten per cent of the designated party vote in the city.

35 9. If for an office nominated by ward, precinct or other
36 district of a city, by a number of qualified electors who are
37 qualified to vote for the candidate whose nomination petition
38 they are signing equal to at least five per cent and not more
39 than ten per cent of the designated party vote in the ward,
40 precinct or other district.

41 10. If for a candidate for an office nominated by a town
42 at large, by a number of qualified electors who are qualified to
43 vote for the candidate whose nomination petition they are
44 signing equal to at least five per cent and not more than ten
45 per cent of the vote in the town.

1 11. If for a candidate for a governing board of a school
2 district, by a number of qualified electors who are qualified to
3 vote for the candidate whose nomination petition they are
4 signing equal to at least one-half of one per cent of the total
5 voter registration in the school district if the governing board
6 members are elected at large or one per cent of the total voter
7 registration in the single member district if governing board
8 members or joint technological education district board members
9 are elected from single member districts. Notwithstanding the
10 total voter registration in the school district or single member
11 district, the maximum number of signatures required by this
12 paragraph is four hundred.

13 12. If for a candidate for a governing body of a special
14 district as described in title 48 by a number of qualified
15 electors who are qualified to vote for the candidate whose
16 nomination petition they are signing equal to at least one-half
17 of one per cent of the vote in the special district but not more
18 than two hundred fifty and not fewer than five signatures.

19 B. The basis of percentage in each instance referred to
20 in subsection A of this section, except in cities, towns and
21 school districts, shall be the number of voters registered in
22 the designated party of the candidate as reported pursuant to
23 section 16-168, subsection G on March 1 of the year in which the
24 general election is held. In cities, the basis of percentage
25 shall be the vote of the party for mayor at the last preceding
26 election at which a mayor was elected. In towns, the basis of
27 percentage shall be the highest vote cast for an elected
28 official of the town at the last preceding election at which an
29 official of the town was elected. In school districts, the
30 basis of percentage shall be the total number of voters
31 registered in the school district or single member district,
32 whichever applies. The total number of voters registered for
33 school districts shall be calculated using the periodic reports
34 prepared by the county recorder pursuant to section 16-168,
35 subsection G. The count that is reported on March 1 of the year
36 in which the general election is held shall be the basis for the
37 calculation of total voter registration for school districts.

38 C. In primary elections the signature requirement for
39 party nominees, other than nominees of the parties entitled to
40 continued representation pursuant to section 16-804, is at least
41 one-tenth of one per cent of the total vote for the winning
42 candidate or candidates for governor or presidential electors at
43 the last general election within the district. Signatures must
44 be obtained from qualified electors who are qualified to vote
45 for the candidate whose nomination petition they are signing.

1 D. If new boundaries for congressional districts,
 2 legislative districts, supervisorial districts, justice
 3 precincts or election precincts are established and effective
 4 subsequent to March 1 of the year of a general election and
 5 prior to the date for filing of nomination petitions, the basis
 6 for determining the required number of nomination petition
 7 signatures is the number of registered voters in the designated
 8 party of the candidate in the elective office, district or
 9 precinct on the day the new districts or precincts are
 10 effective.

11 7. Section 16-949, Arizona Revised Statutes, is proposed to be amended
 12 as follows if approved by the voters and on proclamation of the Governor:

13 16-949. Caps on spending from citizens clean
 14 elections fund

15 A. The commission shall not spend, on all costs incurred
 16 under this article during a particular calendar year, more than
 17 ~~five~~ TEN dollars times the number of Arizona resident personal
 18 income tax returns filed during the previous calendar year. Tax
 19 reductions and tax credits awarded to taxpayers pursuant to
 20 section 16-954, subsections A and B shall not be considered
 21 costs incurred under this article for THE purposes of this
 22 section. The commission may exceed this limit during a calendar
 23 year, provided that it is offset by an equal reduction of the
 24 limit during another calendar year during the same four-year
 25 period beginning January 1 immediately after a gubernatorial
 26 election.

27 B. The commission may use up to ten ~~percent~~ PER CENT of
 28 the amount specified in subsection A of this section for
 29 reasonable and necessary expenses of administration and
 30 enforcement, including the activities specified in section
 31 16-956, subsection A, paragraphs 3 through 7 and subsections B
 32 and C. Any portion of the ten ~~percent~~ PER CENT not used for
 33 this purpose shall remain in the fund.

34 C. The commission shall apply ten ~~percent~~ PER CENT of the
 35 amount specified in subsection A of this section for reasonable
 36 and necessary expenses associated with voter education,
 37 including the activities specified in section 16-956,
 38 subsection A.

39 D. The state treasurer shall administer a citizens clean
 40 ~~election~~ ELECTIONS fund from which costs incurred under this
 41 article shall be paid. The auditor general shall review the
 42 monies in, payments into, and expenditures from the fund no
 43 less often than every four years.

44 8. Title 16, chapter 6, article 2, Arizona Revised Statutes, is
 45 proposed to be amended as follows by adding section 16-962 if approved by the
 46 voters and on proclamation of the Governor:

16-962. Applicability: superior court judges:
reports

A. THIS ARTICLE APPLIES TO CANDIDATES FOR JUDGE OF THE SUPERIOR COURT. FOR CANDIDATES FOR JUDGE OF THE SUPERIOR COURT, "PRIMARY ELECTION SPENDING LIMIT" HAS THE SAME MEANING AS FOR A CANDIDATE FOR THE LEGISLATURE. FOR CANDIDATES FOR PRESIDING JUDGE, "PRIMARY ELECTION SPENDING LIMIT" HAS THE SAME MEANING AS FOR A CANDIDATE FOR MINE INSPECTOR.

B. PERSONS WHO ARE REQUIRED TO FILE REPORTS PURSUANT TO THIS ARTICLE SHALL:

1. IF THE PERSON IS A NONPARTICIPATING CANDIDATE, FILE THE REPORTS WITH THE COUNTY OFFICER IN CHARGE OF ELECTIONS.

2. IF THE PERSON IS A PARTICIPATING CANDIDATE, FILE THE REPORTS WITH THE SECRETARY OF STATE, WHO SHALL TRANSMIT EACH JUDICIAL CANDIDATE'S REPORT TO THE COUNTY OFFICER IN CHARGE OF ELECTIONS.

9. Section 38-431.08, Arizona Revised Statutes, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

38-431.08. Exceptions; limitation

A. This article does not apply to:

1. Any judicial proceeding of any court or any political caucus of the legislature.

2. Any conference committee of the legislature, except that all such meetings shall be open to the public.

~~3.~~ The ~~commissions~~ COMMISSION on appellate ~~and trial~~ court appointments and the commission on judicial qualifications.

~~4.~~ 3. Good cause exception determinations and hearings conducted by the board of fingerprinting pursuant to section 41-619.55.

B. A hearing held within a prison facility by the board of executive clemency is subject to this article, except that the director of the state department of corrections may:

1. Prohibit, on written findings that are made public within five days of so finding, any person from attending a hearing whose attendance would constitute a serious threat to the life or physical safety of any person or to the safe, secure and orderly operation of the prison.

2. Require a person who attends a hearing to sign an attendance log. If the person is over sixteen years of age, the person shall produce photographic identification which verifies the person's signature.

3. Prevent and prohibit any articles from being taken into a hearing except recording devices, and if the person who attends a hearing is a member of the media, cameras.

1 4. Require that a person who attends a hearing submit to
2 a reasonable search on entering the facility.

3 C. The exclusive remedies available to any person who is
4 denied attendance at or removed from a hearing by the director
5 of the state department of corrections in violation of this
6 section shall be those remedies available in section 38-431.07,
7 as against the director only.

8 D. Either house of the legislature may adopt a rule or
9 procedure pursuant to article IV, part 2, section 8,
10 Constitution of Arizona, to provide an exemption to the notice
11 and agenda requirements of this article or to allow standing or
12 conference committees to meet through technological devices
13 rather than only in person.

14 10. Conditional enactment

15 Section 16-962, Arizona Revised Statutes, as added by this measure, and
16 sections 12-102, 12-121, 16-311, 16-322, 16-949 and 38-431.08, Arizona
17 Revised Statutes, as amended by this measure, do not become effective unless
18 the Constitution of Arizona is amended by vote of the people at the next
19 regular general election to replace the constitutional requirement of merit
20 selection of superior court judges with election as provided in sections 1
21 and 2 of this measure.

22 11. Short title

23 These measures may be cited as "Clean Elections for Judges."

24 12. Intent

25 In 1974, a new system for accountability for judges was instituted in
26 Arizona. Under this selection and retention scheme, voters were supposed to
27 have a meaningful way to remove judges who abused their authority and who
28 refused to follow the law in their decisions.

29 Now, over 30 years later, it is clear that the current system has
30 failed to provide any accountability for judges. Each election voters are
31 presented with long lists of names of judges and no meaningful information to
32 decide whether to retain a particular judge or remove that judge. Out of the
33 thousands of times judges have sought retention on the ballot since _____, no
34 judges have been removed by the voters.

35 Clean Elections for Judges will institute a democratic system in which
36 the voters will be allowed to choose who will hold the office of superior
37 court judge. Judges who are incompetent or abusive will face a real opponent
38 who will be able to point out the incumbent's misconduct. Funding from fines
39 assessed on criminals will ensure that qualified persons will be able to run
40 for office without the risk of being tainted by campaign contributions from
41 special interests.

42 A further purpose of Clean Elections for Judges is to ensure that all
43 geographic areas of the county will receive equal representation of superior
44 court judges. Under the current scheme, most judges live in only a few
45 geographic areas.

1 Clean Elections for Judges restores democracy, accountability and
2 geographic representation to the judiciary.
3 13. The Secretary of State shall submit these propositions to the
4 voters at the next general election as separate ballot propositions as
5 provided by article IV, part 1, section 1 and article XXI, Constitution of
6 Arizona, and section 19-125, Arizona Revised Statutes.